

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MICHAEL HALL and JAMES HALL,

Plaintiffs,

v.

No. 1:20-cv-1216

TOTAL INSURANCE BROKERS, LLC,
and Jane Does 1-5,

Defendants.

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, Defendant Total Insurance Brokers, LLC (“Total Insurance”), by and through counsel, submits this Notice of Removal for the purpose of removing the above-entitled action from the Twelfth Judicial District Court, Otero County, New Mexico, where it is now pending, to the United States District Court for the District of New Mexico. Total Insurance states the following grounds for removal:

1. Plaintiffs Michael Hall and James Hall (collectively, the “Plaintiffs”) filed a complaint in the Twelfth Judicial District Court, Otero County, New Mexico, captioned *Michael Hall and James Hall v. Total Insurance Brokers, LLC*, No. D-1215-CV-2020-00750 (“State Court Action”). *See id* generally. *See Complaint for Violation of the Unfair Practices Act, the Telephone Consumer Protection Act and Torts* (the “Complaint”). A true and correct copy of the Complaint is attached hereto as **Exhibit A**.

2. Total Insurance is named as a defendant in the Complaint. Total Insurance was served with copies of the Summons and the Original Complaint on October 23, 2020 by service upon its registered agent, Corporation Service Company.

3. Among other things, Plaintiffs allege that Total Insurance violated the federal Telephone Consumer Protection Act (“TCPA”), 27 U.S.C. § 227, and its implementing regulations. *See Exhibit A* ¶¶ 30, 38(g), and 45-48.

4. In and by asserting the aforementioned allegations, Plaintiffs have sought relief under the federal TCPA and its implementing regulations. *See id.* ¶¶ 45-48.

5. Plaintiffs also allege violations of the federal Telemarketing Sales Rule, 15 C.F.R. § 310.1, *et seq.*, which implements, in part, the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. §§ 6101-6108. *See id.* ¶¶ 3, 30, 43-44.

6. Therefore, this Court has original “federal question” jurisdiction over this action pursuant to 28 U.S.C. § 1331 (general federal question jurisdiction provision).

7. As a civil action founded upon a claim or right arising under the substantive laws of the United States of America, this action is properly removable to this Court pursuant to 28 U.S.C. § 1441(a).

8. The state court in which the State Court Action was commenced is within this Court’s district and, therefore, the State Court Action is properly removable to this Court under 28 U.S.C. §§ 1441(a) and 1446.

9. This Notice of Removal is being timely filed within thirty (30) days of receipt by Total Insurance, through service or otherwise, of a copy of the Complaint, which is the initial pleading setting forth the claim for relief upon which the State Court Action is based. 28 U.S.C. § 1446(b).

10. Total Insurance will serve and certify service of copies of this Notice of Removal to the Plaintiffs as required by 28 U.S.C. § 1446(d).

11. In compliance with D.N.M.LR-Civ. 81.1(a), Total Insurance is filing herewith true and correct copies of all other filings, records, and proceedings from the State Court Action, attached hereto as **Exhibit B**.

12. Total Insurance will file a copy of this Notice of Removal with the Clerk of the Twelfth Judicial District Court, Otero County, pursuant to 28 U.S.C. § 1446(d). A true and correct copy of *Notice to State Court of Removal to Federal Court* is attached hereto as **Exhibit C**.

For all of the reasons stated, defendant Total Insurance respectfully requests that the above-referenced action currently pending against it in the Twelfth Judicial District Court of Otero County, New Mexico be removed to this Court, which shall assume full jurisdiction over it as provided by law, and it further requests that this Court enter any other orders as may be necessary and proper.

DATED: November 20, 2020.

Respectfully,

HOLLAND & HART LLP

/s/ Larry J. Montañó

By _____

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ATTORNEYS FOR DEFENDANT

TOTAL INSURANCE BROKERS, LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on November 20, 2020, Defendant's Notice of Removal was served via U.S. Mail, postage prepaid, to the following:

Sid Childress, Esq.
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ATTORNEY FOR PLAINTIFFS

By /s/ Larry J. Montaño
Larry J. Montaño